

Carol A. LeBoo
Acting Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2005 APR 21 PM 1:12

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:

Nance Petroleum Corporation

Respondent.

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EXPEDITED CONSENT AGREEMENT

DOCKET NO.: CWA-08-2006-0025

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Nance Petroleum Corporation, by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about June 8, 2005, and violations of the Spill Prevention Control and Countermeasure (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. §1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an

SPCC plan, in accordance with 40 C.F.R. § 112.7. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates Quealy Dome Tensleep Battery located in Albany County, Wyoming.

Respondent admits that on or about June 8, 2005, its Quealy Dome Tensleep Battery facility discharged an unknown quantity of crude oil into or upon an unnamed tributary to Sevenmile Creek and/or its adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, and caused a sludge or emulsion to be deposited on the surface of the unnamed tributary to Sevenmile Creek and/or its adjoining shoreline.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for Quealy Dome Tensleep Battery in accordance with 40 C.F.R. § 112.7.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112.7 on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a revised copy of the SPCC Plan for Quealy Dome Tensleep Battery to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1350.00; \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$850.00 for violations of Section 311(j) of the Act, which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF- UFO)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, (3) taken corrective actions to prevent future spills, and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

4/20/06
Date

Nance Petroleum Corporation, Respondent.

By: RT

Date: 3-24-06

Name: Ronald B. Santi
Vice President - Land

Title: _____

List of SPCC Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and/or implement a facility SPCC Plan in accordance with 40 C.F.R. §§ 112.7, 112.9, and 112.10.

Nance Petroleum Corporation's Quealy Dome Tensleep Battery SPCC Plan, dated November 21, 2005 (original plan date July 30, 2005), has the following violations:

Professional Engineer (P.E.) certification does not contain the elements required by 40 C.F.R. § 112.3(d) (an obsolete certification statement was used).

Does not specify that the Plan will be amended when there is a change in facility design, construction, operation or maintenance that will materially affect its potential for a discharge in violation of 40 C.F.R. § 112.5(a).

Lacks procedures for Plan review every five years with documentation, such as a log, in violation of 40 C.F.R. § 112.5(b).

Does not follow sequence of 40 C.F.R. § 112, or contain a cross-reference, in violation of 40 C.F.R. § 112.7.

Inadequate facility diagram in violation of 40 C.F.R. § 112.7(a)(3).

Inadequate discussion of discharge or drainage controls in violation of 40 C.F.R. § 112.7(a)(3)(iii).

No discussion of countermeasures for discharge discovery, response, and cleanup in violation of 40 C.F.R. § 112.7(a)(3)(iv).

Inadequate discussion of proper disposal of recovered materials in violation of 40 C.F.R. § 112.7(a)(3)(v).

No organized discharge procedures for use in an emergency in violation of 40 C.F.R. § 112.7(a)(5).

No secondary containment provided for loading/unloading in violation of 40 C.F.R. § 112.7(c).

Inadequate explanation of impracticability in violation of 40 C.F.R. § 112.7(d). The requirements that must be met when claiming impracticability of secondary containment for the tank truck loading area and facility piping are not addressed. In addition, the explanation of why secondary containment is not practicable appears to be a general statement rather than a facility-specific analysis.

Failure to provide an oil spill contingency plan which follows the provisions of Part 109 in violation of 40 C.F.R. § 112.7(d)(1).

Failure to provide a written commitment of manpower, equipment, and materials to control and remove any discharged oil in violation of 40 C.F.R. § 112.7(d)(2).

Inadequate discussion for the closure and sealing of diked area drains in violation of 40 C.F.R. § 112.9(b)(1). It is not clear if drains have been installed.

Inadequate description of secondary containment for tank battery, separation, and treating facility installations in violation of 40 C.F.R. § 112.9(c)(2). The volume of secondary containment provided for containers is not stated.

No procedure to confine drainage from undiked areas from which a discharge of oil could occur, such as at the loading/unloading area. Treaters and free water knock-outs also have no secondary containment, and the catchment basin or holding pond is inadequate to contain a discharge in violation of 40 C.F.R. § 112.9(c).

No procedures for visually inspecting containers, foundations and supports for signs of deterioration and maintenance needs in violation of 40 C.F.R. § 112.9(c)(3).

No procedures to inspect saltwater disposal facilities in violation of 40 C.F.R. § 112.9(d)(2).

Nance Petroleum Corporation's Quealy Dome Tensleep Battery has the following technical implementation violations:

No secondary containment for loading/unloading area in violation of 40 C.F.R. § 112.7(c).

Accumulated oil is not adequately removed from field drainage ditches, road ditches, and oil traps, sumps, or skimmers in violation of 40 C.F.R. § 112.9(b)(2).

The pit cannot adequately contain a discharge from heater treater or free water knock-outs in violation of 40 C.F.R. § 112.9(c).

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **NANCE PETROLEUM CORPORATION**, **DOCKET NO.: CWA-08-2006-0025** was filed with the Regional Hearing Clerk on April 21, 2006.

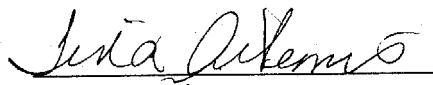
Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on April 21, 2006, to:

Mr. Robert L. Nance, President
Nance Petroleum Corporation
550 N. 31st Street, Suite 500
Billings, MT 59101-1125

And

Commander
Finance Center (OGR)
U. S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

April 21, 2006


Tina Artemis
Regional Hearing Clerk



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